

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN LITTLEJOHN, JR.

Petitioner,

No. CIV S-04-1714 DFL CMK P

vs.

FINDINGS & RECOMMENDATIONS

SACRAMENTO COUNTY  
SHERIFF DEPARTMENT, et al.,

Respondents.

Petitioner is a state prisoner proceeding in forma pauperis and without counsel with this application for a writ of habeas corpus.

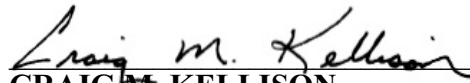
The exhaustion of available state remedies is a prerequisite to a federal court's consideration of claims sought to be presented in habeas corpus proceedings. See Rose v. Lundy, 455 U.S. 509 (1982); 28 U.S.C. § 2254(b). A petitioner can satisfy the exhaustion requirement by providing the highest state court with a full and fair opportunity to consider all claims before presenting them to the federal court. Picard v. Connor, 404 U.S. 270, 276 (1971), Middleton v. Cupp, 768 F.2d 1083, 1086 (9th Cir.), cert. denied, 478 U.S. 1021 (1986).

After reviewing the amended petition for habeas corpus, the court finds that petitioner has failed to exhaust state court remedies. Petitioner states that he “has not had a

1 hearing yet on [his] writ. All they did was endorse and stamp [his] writ..." (Am. Pet. at 4.) The  
2 claims have not been presented to the California Supreme Court. Further, there is no allegation  
3 that state court remedies are no longer available to him. Accordingly, IT IS HEREBY  
4 RECOMMENDED that petitioner's application for a writ of habeas corpus be dismissed for  
5 failure to exhaust state remedies.

6           These findings and recommendations will be submitted to the United States  
7 District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
8 twenty days after being served with these findings and recommendations, petitioner may file  
9 written objections with the court. Such a document should be captioned "Objections to Findings  
10 and Recommendations." Petitioner is advised that failure to file objections within the specified  
11 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153  
12 (9th Cir. 1991).

13  
14 DATED: March 14, 2007.

15  
16   
17 **CRAIG M. KELLISON**  
18 UNITED STATES MAGISTRATE JUDGE  
19  
20  
21  
22  
23  
24  
25  
26